

1 children.

2 JUDGE SIPPEL: I'm going to sustain
3 the objection. Greater than what. It's a
4 vague, complex question.

5 I've sustained that objection so
6 we're going to see about rephrasing that
7 question Mr. Schurman, I'm sorry.

8 BY MS. LANCASTER:

9 Q Does repeater operation give you
10 increased access to children over the normal
11 person walking the street?

12 MR. LYON: Objection.

13 JUDGE SIPPEL: Sustained.

14 BY MS. LANCASTER:

15 Q Does it give you greater access to
16 children more than just a normal HAM operator?

17 MR. LYON: Objection.

18 JUDGE SIPPEL: Sustained.

19 BY MS. LANCASTER:

20 Q Can you determine the age of a
21 radio operator?

22 JUDGE SIPPEL: At what point. Wait

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1 a minute, wait a minute.

2 BY MS. LANCASTER:

3 Q When you're talking to another
4 radio operator over the radio do you know how
5 old that person is?

6 A No, not specifically although if
7 their using their call sign there are a number
8 of online databases that allow you to look up
9 that call sign and thereby determine the age.

10 JUDGE SIPPEL: How quickly can you
11 do that?

12 THE WITNESS: A matter of seconds.

13 BY MS. LANCASTER:

14 Q When you personally talk to someone
15 over the radio do you necessarily go look up
16 their call sign immediately to determine their
17 age?

18 A No, but certainly if I have a
19 question about someone's operations or if the
20 individual or just curiosity as to who they
21 are, where they might live I would look up
22 their call sign in one of the databases and it

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1 gives in many cases a photograph of them but
2 it certainly always gives their age, their
3 address, and when they became a HAM radio
4 operator.

5 Q Okay, would you -- Mr. Schurman
6 would you quickly look at exhibit -- wait a
7 minute let me find it -- Exhibit 7. I
8 believe you should have that there.

9 JUDGE SIPPEL: This is the Bureau
10 Exhibit 7?

11 MS. LANCASTER: Yes sir.

12 THE WITNESS: Yes, I have that.

13 BY MS. LANCASTER:

14 Q Are you familiar with this
15 document?

16 A Yes, this is an alert that I sent
17 out to our club membership on our Yahoo
18 remailer as a Yahoo Group that our members
19 subscribe to so that we can make announcements
20 of upcoming events and other important
21 information for our club membership.

22 This is the announcement that I

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1 sent out after discovering that Mr. Titus was
2 a Level 3 offender and I was already aware
3 that he owned the repeater in question and we
4 had actually listed that repeater on a list of
5 repeaters that were recommending the kids to
6 use.

7 And so that's why I felt compelled
8 to issue this alert to recommend that the
9 parents ask their children not to use this
10 repeater any further.

11 Q When did you send this out?

12 A The date on it is September 24,
13 2006.

14 MR. LYON: Your Honor, we're really
15 getting into cumulative evidence. He's gone
16 over this exhibit in his written testimony and
17 I guess if counsel wants to, and you're fine
18 with having her go give his written testimony
19 back orally we can do that. But I think we're
20 spending a lot of time.

21 JUDGE SIPPEL: All right, I'm
22 interested in this line. So go ahead.

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1 MR. LYON: Okay.

2 BY MS. LANCASTER:

3 Q Have --

4 JUDGE SIPPEL: The date on the --
5 let me clear that up. The date on the
6 document, Exhibit 7 is September 24, 2006.
7 The date on the Cantwell letter is September
8 26th. Is that right, those dates accurate?

9 THE WITNESS: Yes sir.

10 JUDGE SIPPEL: And it says alert
11 KB7ILD on Exhibit 7. What does that mean?

12 THE WITNESS: That is Mr. Titus'
13 SEC license designator KB7ILD.

14 JUDGE SIPPEL: I meant to say that.
15 And then it says dash 44.375 repeater. What
16 is that?

17 THE WITNESS: That is the frequency
18 of operation Mr. Titus' repeater here in the
19 Seattle area. So that's how they identify how
20 to tune their radio to access that repeater.

21 JUDGE SIPPEL: Does he have -- well
22 is it his repeater or is it a repeater that he

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1 has access to?

2 THE WITNESS: It's my
3 understanding, at least at the time, that it
4 was Mr. Titus' personal investment that
5 created that repeater.

6 JUDGE SIPPEL: And you indicate in
7 this -- this is your document right, you did
8 this. This is your name down here, John
9 Schurman. It's AA7UJ, that being what?

10 THE WITNESS: That's my HAM call
11 sign.

12 JUDGE SIPPEL: So you're sending
13 this out of your HAM operation?

14 THE WITNESS: Yes, I signed this as
15 President of the club.

16 JUDGE SIPPEL: Let's see, it
17 doesn't say that. It says John Schurman
18 AA7UJ. It doesn't say anything about the
19 club.

20 THE WITNESS: Right, because the
21 only one who had access to post on this
22 particular remailer were officers of the club.

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1 All of the members of the club were aware of
2 my position as President of the club.

3 JUDGE SIPPEL: So this was going to
4 all of your members?

5 THE WITNESS: Correct.

6 JUDGE SIPPEL: Okay.

7 THE WITNESS: It is a public group.
8 It's accessible by people outside of our
9 membership. But that was definitely the
10 target audience as members routinely logged in
11 to look at the Yahoo group for our club.

12 JUDGE SIPPEL: That's good. Thank
13 you for that answer. That's a very clear
14 answer.

15 Now, you say that it's a Level 3
16 Sex Offender. And this was on September 24,
17 2006 on Sunday. Do you know -- how did you
18 learn about a Level 3 Sex Offender?

19 THE WITNESS: By viewing the
20 Seattle Police Departments blog. They have a
21 web blog that lists all the sex offenders
22 within their jurisdiction.

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1 JUDGE SIPPEL: They have that but
2 how did that come to your attention?

3 THE WITNESS: It was identified to
4 me by another HAM that I should -- that I was
5 having a casual discussion with another HAM
6 about repeaters that we were using and
7 recommending the kids use. He was the one
8 that indicated that I should go look at this
9 blog and learn for myself of Mr. Titus'
10 status.

11 JUDGE SIPPEL: So Mr. Titus is on
12 the blog and it's a police blog?

13 THE WITNESS: That's correct.

14 JUDGE SIPPEL: Who maintains the
15 blog. Do you know?

16 THE WITNESS: The Seattle Police
17 Department.

18 JUDGE SIPPEL: Now do you know what
19 a Level 3 Sex Offender is?

20 THE WITNESS: I'm not specific with
21 the language of the different levels of
22 offenders other than I know the higher the

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1 number the more severe the case.

2 JUDGE SIPPEL: Who told you that?

3 THE WITNESS: I believe it was
4 mentioned on the blog or it's just through my
5 general knowledge. I don't have any specific
6 recollection of that being told to me.

7 JUDGE SIPPEL: Do you think your
8 members are going to know what a Level 3 Sex
9 Offender are. You're sending this out to your
10 membership?

11 THE WITNESS: No, I would think
12 that the word sex offender jumps out at them
13 and the level is probably not as significant.
14 I think they would be just as concerned
15 regardless of the level.

16 JUDGE SIPPEL: So if it was Level
17 1 Sex Offender?

18 THE WITNESS: I think they would
19 raise the same concern among the parents --

20 JUDGE SIPPEL: Would you have sent
21 it out to them. Would you have sent the same
22 communication --

1 THE WITNESS: I would have
2 regardless of the level.

3 JUDGE SIPPEL: Regardless of the
4 level?

5 THE WITNESS: Correct.

6 JUDGE SIPPEL: Suppose he was a
7 suspected?

8 THE WITNESS: I think I would have
9 had a harder time with that because there's no
10 proof. But I can only speculate on what I
11 might have done.

12 JUDGE SIPPEL: Okay, don't
13 speculate. That's a hypothetical. They
14 probably don't have suspects on the blog.

15 But okay I'm finished with this.
16 Do you have anything more on this Ms.
17 Lancaster?

18 MS. LANCASTER: I was just going to
19 ask him if it would make any difference if it
20 were a Level 2 Sex Offender.

21 JUDGE SIPPEL: Well he said no.

22 THE WITNESS: No, I would have

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1 exactly the same action.

2 JUDGE SIPPEL: Okay, I think we're
3 finished with this.

4 MS. LANCASTER: One more question
5 real quick, Your Honor.

6 BY MS. LANCASTER:

7 Q At the beginning of this document
8 it says attention all LWHC members. What do
9 those initials stand for?

10 A That's the Lake Washington HAM
11 Club.

12 Q Okay, thank you.

13 MS. LANCASTER: I have nothing
14 further, Your Honor.

15 JUDGE SIPPEL: All right, we're
16 finished with this. You're finished with your
17 questioning?

18 MS. LANCASTER: Yes sir.

19 JUDGE SIPPEL: Okay, is there any
20 cross-examination?

21 CROSS-EXAMINATION

22 BY MR. LYON:

1 Q Mr. Schurman, Mr. Titus has never
2 sought to be involved with your club is that
3 right?

4 A No.

5 Q Or any club directed to youths to
6 your knowledge?

7 A I have no knowledge.

8 Q Okay, so you have no knowledge that
9 he's sought to be associated with any amateur
10 club that has significant youth involvement?

11 A No, I have no knowledge of such
12 involvement.

13 Q Now, to your -- in your 40 years of
14 experience in amateur radio have you
15 determined that there are more adults or more
16 youths involved in amateur radio?

17 A Certainly my experience has been
18 that it's more adult than youth involved in
19 the hobby. That's part of why we started the
20 club.

21 Q Okay, to bring more people into the
22 hobby?

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1 A Bring more young people into the
2 hobby.

3 Q Generally it tends to be an older
4 crowd involved in amateur radio doesn't it?

5 A In many cases that's correct.
6 Certainly in some facets of the hobby that are
7 more expensive is difficult for the youth to
8 get involved.

9 Q Now, it wasn't clear to me from
10 your testimony. So I'll ask the question. Do
11 you take children on overnight trips?

12 A We do for the field day event. We
13 do -- we don't take them anywhere. Their
14 parents bring them. They are required to
15 bring a parent along, but they are overnight
16 it is an overnight event with children.

17 Q Okay, and this overnight event I
18 think you just said the parents are there, or
19 at least one parent is there?

20 A At least one parent is required to
21 be there.

22 Q So it's fair to say that the

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1 children are closely supervised during this
2 overnights isn't it?

3 A We do our best.

4 Q And I'm sure everyone appreciates
5 that. You mentioned that mentoring was common
6 in amateur radio. Do you have any information
7 that Mr. Titus has sought to mentor young
8 people in amateur radio?

9 A I have no idea.

10 Q Okay, now in these swap meets that
11 you mentioned in was it HAMventions?

12 A HAMventions is the trade name of
13 the one in Dayton.

14 Q Okay, they draw thousands of
15 people, right?

16 A Correct.

17 Q Okay, and anyone from the public
18 can come can't they?

19 A Absolutely, you don't even have to
20 be a HAM radio.

21 Q That's right, you don't have to
22 have a license to come to these right?

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1 A No, no sir, anyone can attend.

2 Q Okay, you mentioned that repeaters
3 are monitored. Is there anything that stops
4 people from monitoring the simplex
5 frequencies?

6 A No, absolutely not. The fact is
7 some people that are emotionally communicating
8 in a local pattern might choose a simplex
9 frequency as their primary monitoring channel
10 and expect other operators to find them in
11 that frequency.

12 Q How long has Mr. Titus been
13 operating the repeater that you mentioned?

14 A I can't recollect the exact date
15 but it seems to me it was in around 2004 or
16 thereabouts that Mr. Titus acquired the
17 repeater.

18 Q Okay, so it's been several years?

19 A Yes sir.

20 Q Okay, do you have any knowledge
21 that Mr. Titus has failed to fulfill his
22 responsibilities with regard to his repeater?

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1 A No sir.

2 Q Okay, there have been no complaints
3 about Mr. Titus' amateur operation that you've
4 been made aware of are there?

5 A No.

6 Q Okay, with respect to the exhibits
7 , Enforcement Bureau Exhibit 8, the letter to
8 Senator Cantwell. Did you get a response from
9 Senator Cantwell?

10 A I do believe that we got a reply
11 that just said -- it was a very brief reply
12 that "I'd look into it".

13 Q And then what happened?

14 A We've had no more correspondence
15 from our senator.

16 Q Then you got a contact from the
17 FCC?

18 A That's correct.

19 Q Okay, I think you mentioned that
20 there was no such thing as a private
21 communication in amateur radio. Can you say
22 more about that?

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1 A Yes, by virtue of the fact that the
2 spectrum cannot be blocked in any way and
3 amateur rules specifically prohibit using
4 cryptic communication or any kind of
5 incryption or other cypher in communicating
6 between amateur stations.

7 Any other amateur station can
8 potentially -- they don't even have to be an
9 amateur. I mean any radio receiver with the
10 frequency response to cover the communications
11 under way should be able to monitor that
12 communication.

13 Q That's interesting. So anyone who
14 has a radio can listen in on amateur
15 transmissions. Is that what you're saying?

16 A That's correct. That's correct.

17 Q So you don't have to have a license
18 to hear the transmissions?

19 A That's correct. No license
20 required to receive.

21 Q So somebody who was intent on
22 making contact with children who were using

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1 amateur radio could do so without a license,
2 correct?

3 A Well they could hear. They
4 wouldn't be able to communicate back.

5 Q But, it is true that they could
6 find their address and their age?

7 MS. LANCASTER: Objection Your
8 Honor, that's speculation. There's no --

9 JUDGE SIPPEL: This witness has
10 testified about this. That he can find out
11 ages and we've had testimony in this area.
12 I'm going to permit it, overruled.

13 BY MR. LYON:

14 Q Go ahead Mr. Schurman. Do you need
15 me to repeat that?

16 A Can you repeat the question please.

17 Q Sure, anyone listening to an
18 amateur transmission and hearing the call sign
19 could look up the age of the person
20 transmitting in that database, right?

21 A Yes sir.

22 Q And the address?

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1 A Yes sir.

2 Q Okay, now sir you have no training
3 or experience as a psychiatrist?

4 A No sir.

5 Q Or as a psychologist?

6 A No sir.

7 Q Or as a counselor?

8 A No sir.

9 Q Or in rehabilitation?

10 A No.

11 Q Or in law enforcement?

12 A No.

13 Q Or in the study of sexual deviants?

14 A No.

15 Q You're here as a concerned amateur
16 radio operator, right?

17 A That's correct.

18 Q And are you concerned with being
19 fair to Mr. Titus?

20 A Of course.

21 Q You've never witnessed Mr. Titus
22 commit a crime?

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1 A No.

2 Q You never heard Mr. Titus express
3 an intent to commit a crime?

4 A No.

5 Q You never heard Mr. Titus threaten
6 to commit a crime?

7 A I never heard -- I'm sorry, I
8 didn't hear that.

9 Q You never heard David Titus
10 threaten to commit a crime?

11 A No.

12 Q Okay, you do know of his work in
13 amateur radio?

14 A Yes.

15 Q Okay, and you know of his work --
16 are you familiar with the term ARES?

17 A Yes, I am.

18 Q Would you tell the Court what that
19 means?

20 A Amateur Radio Emergency Service.
21 These tend to be smaller organizations,
22 although they umbrellaed under a larger

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1 organization that provide emergency
2 communications in the event of some of kind of
3 disaster as identified by their sponsoring
4 agency.

5 For example, our Lake Washington
6 HAM Club is affiliated with the Kirkland ARES
7 team. Thereby -- it's our goal to teach these
8 kids the emergency communication practices so
9 that as they get older and can participate in
10 ARES activities they already have the
11 association and affiliation.

12 But it's an
13 organized method of training and practicing to
14 facilitate emergency communications in the
15 event of a call up by their sponsoring agency
16 which typically would be some event that would
17 in some fashion or another either require
18 additional communications, or in lieu of
19 normal communications that have failed due to
20 the catastrophe.

21 Q And is ARES an important element of
22 amateur radio?

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1 A Yes, I believe it is. It's one of
2 many facets to the hobby.

3 Q Now I think you mentioned Part 97
4 of the FCC Rules. Are you familiar with Part
5 97?

6 A I wouldn't say I'm intimate with
7 it, but I'm very familiar with it.

8 Q And it's fair to say that in order
9 -- I'm sorry what license classification are
10 you?

11 A I'm an amateur extra Class license
12 holder.

13 Q And that's the highest
14 classification isn't it?

15 A That's correct.

16 Q Okay, so in order to become an
17 amateur extra operator you do have to be
18 pretty familiar with the FCC rules don't you?

19 A Yes.

20 Q And Part 97?

21 A Yes, I believe so.

22 Q Okay, is it fair to say that you

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1 have no knowledge of David Titus' ever having
2 violated Part 97 of the FCC rules?

3 A To my knowledge I have no knowledge
4 of him ever violating the rules.

5 Q Okay, does Mr. Titus have a
6 reputation for following the FCC rules?

7 A I don't know.

8 Q Okay, you used the term self-
9 policing. Would you say more about that?

10 A Yes, well there is as you well know
11 an FCC Enforcement Bureau. They do not
12 typically involve themselves in the day-to-day
13 policing of the amateur spectrum and have
14 specifically designated that we should deal
15 with them ourselves.

16 And so this is in the area of
17 unintentional interference or other technical
18 operations that are not to best practice or it
19 could be the language used. Any of these kind
20 of things we are directed by Part 97 to try to
21 figure it out, resolve it ourselves first
22 before we bring a complaint up to the FCC.

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1 Q Is it fair to say that if a typical
2 amateur radio operator heard someone
3 committing a crime over the air that he would
4 report it?

5 A I'm sorry, can you please repeat?

6 Q Sure, if a typical amateur radio
7 operator heard another amateur radio operator
8 committing a crime over the air do you think
9 he would report it?

10 MS. LANCASTER: I object, Your
11 Honor. That calls for speculation. This
12 witness doesn't know what another amateur
13 radio operator is going to do and what crime
14 they would or would not report.

15 JUDGE SIPPEL: Well --

16 MS. LANCASTER: I think in part it
17 would depend on the crime.

18 JUDGE SIPPEL: Well, yes I suppose
19 it would depend on the crime and it would
20 depend on the individual operator. But maybe
21 you can rephrase the question in terms of is
22 there any cultural or bylaw requirement that

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1 if a HAM operator discovers that there's a
2 bank robbery being planned over the frequency
3 that he's monitoring. Does that person have
4 any obligation to turn that -- to make that
5 information available to law enforcement.

6 MR. LYON: I'll accept that as --

7 THE WITNESS: Whether they have the
8 obligation I think is a difficult topic.
9 Certainly there is a provision in Part 97 that
10 specifically identifies felonies that use
11 amateur radio in their execution as grounds
12 for revocation of your license privilege.

13 Though in that regard I would
14 certainly personally feel obliged to take
15 action if I heard a felony in commission over
16 the amateur radio airwaves.

17 BY MR. LYON:

18 Q Isn't it true sir that there are
19 people in amateur radio who are tasked with
20 monitoring the frequencies and reporting
21 misconduct?

22 A There are official ARRO appointed

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